

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jean Paul Lozada	Team: Squad #2	CCRB Case #: 201803048	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/18/2018 4:25 PM	Location of Incident: East 219th Street and White Plains Road, and the 47th Precinct stationhouse	Precinct: 47	18 Mo. SOL 10/18/2019	EO SOL 10/18/2019	
Date/Time CV Reported Thu, 04/19/2018 12:36 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 04/19/2018 12:36 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			047 PCT
2. POM Donald Harris	18438	957660	047 PCT
3. POM Joseph Alcoser	08317	949981	047 PCT
4. SGT Robert Durst	03362	946684	047 PCT
5. POM Jared Faber	07590	956630	047 PCT
6. POM Michael Chin	16455	894567	047 PCT
7. POM John Londono	20603	959765	047 PCT
8. SGT Howard Roth	03468	949582	047 PCT
9. POM Tyrone Furby	24178	922381	047 PCT
10. Officers			047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kevin Cedeno	07789	960346	047 PCT
2. POM Yerald Perez	22026	959887	047 PCT
3. POM Alex Chen	22641	954635	047 PCT
4. POM Fatmir Vucetovic	559	955644	047 PCT
5. POM Nicholas Vandyke	11503	956314	047 PCT
6. POM Brian Diaz	18840	963010	047 PCT
7. POM Manuel Paulino	25148	947824	047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
8. POM Amaury Gonzalez	25722	948213	047 PCT
9. POM Jancarlos Polanco	09426	951069	047 PCT
10. POM Redmond Murphy	01893	956119	047 PCT
11. POM Nestor Allende	05539	960586	047 PCT
12. POM Julio Veras	18693	959343	047 PCT
13. POM Nicholas Santomero	16608	956238	047 PCT
14. POM Rafael Rispoli	12456	956201	047 PCT
15. POM Kevin Mockel	21947	947261	047 DET
16. POM Kyron Delarosa	11960	960431	047 PCT
17. LT Anand Bhoj	00000	915053	047 PCT
18. POF Jeannette Lopez	862	955087	047 PCT
19. POF Taralena Gerrato	16783	957534	047 PCT
20. LT Ray Sanchez	00000	942504	047 PCT
21. SGT Salvatore Ronzino	5445	940671	047 PCT
22. SGT Melvin Moultrie	02183	933046	P S B
23. POM Richard Ayala	13879	955734	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Donald Harris	Force: At East 219th Street and White Plains Road in the Bronx, Police Officer Donald Harris used physical force against § 87(2)(b)	
B. Officers	Abuse: At East 219th Street and White Plains Road in the Bronx, officers threatened to arrest individuals.	
C. An officer	Force: At East 219th Street and White Plains Road in the Bronx, an officer used a chokehold against § 87(2)(b)	
D. An officer	Force: At East 219th Street and White Plains Road in the Bronx, an officer restricted § 87(2)(b)'s breathing.	
E.SGT Robert Durst	Force: At East 219th Street and White Plains Road in the Bronx, Sergeant Robert Durst used physical force against § 87(2)(b)	
F.POM Jared Faber	Force: At East 219th Street and White Plains Road in the Bronx, Police Officer Jared Faber used physical force against individuals.	
G. An officer	Force: At East 219th Street and White Plains Road in the Bronx, an officer used physical force against § 87(2)(b)	
H.POM Tyrone Furby	Off. Language: At East 219th Street and White Plains Road in the Bronx, Police Officer Tyrone Furby made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	
I. An officer	Force: At East 219th Street and White Plains Road in the Bronx, an officer used a chokehold against § 87(2)(b)	
J. An officer	Force: At East 219th Street and White Plains Road in the Bronx, an officer restricted § 87(2)(b) breathing	
K. Officers	Abuse: At East 219th Street and White Plains Road in the Bronx, officers took recordings of § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
L.POM Tyrone Furby	Discourtesy: At East 219th Street and White Plains Road in the Bronx, Police Officer Tyrone Furby spoke discourteously to § 87(2)(b)	
M.POM Michael Chin	Force: At East 219th Street and White Plains Road in the Bronx, Police Officer Michael Chin used physical force against § 87(2)(b)	
N.POM Joseph Alcoser	Off. Language: En route to the 47th Precinct stationhouse, Police Officer Joseph Alcoser made remarks to § 87(2)(b) based upon race.	
O.SGT Howard Roth	Discourtesy: At the 47th Precinct stationhouse, Sergeant Howard Roth spoke discourteously to § 87(2)(b)	
P.SGT Howard Roth	Discourtesy: At the 47th Precinct stationhouse, Sergeant Howard Roth spoke discourteously to § 87(2)(b)	
Q.POM John Londono	Discourtesy: At the 47th Precinct stationhouse, Police Officer John Londono spoke discourteously to § 87(2)(b)	
R.POM John Londono	Discourtesy: At the 47th Precinct stationhouse, Police Officer John Londono spoke discourteously to § 87(2)(b)	
S.POM John Londono	Discourtesy: At the 47th Precinct stationhouse, Police Officer John Londono spoke discourteously to § 87(2)(b)	
T.POM John Londono	Discourtesy: At the 47th Precinct stationhouse, Police Officer John Londono spoke discourteously to § 87(2)(b)	
U.POM John Londono	Off. Language: At the 47th Precinct stationhouse, Police Officer John Londono made remarks to § 87(2)(b) based upon race.	
V.POM John Londono	Off. Language: At the 47th Precinct stationhouse, Police Officer John Londono made remarks to § 87(2)(b) based upon the physical disability of § 87(2)(b)	
W.POM John Londono	Abuse: At the 47th Precinct stationhouse, Police Officer John Londono made a sexually suggestive remark to § 87(2)(b)	
X.POM John Londono	Off. Language: At the 47th Precinct stationhouse, Police Officer John Londono made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	
Y. An officer	Off. Language: At the 47th Precinct stationhouse, an officer made remarks to § 87(2)(b) based upon race.	
Z. An officer	Off. Language: At the 47th Precinct stationhouse, an officer made remarks to § 87(2)(b) based upon race.	

Case Summary

On April 19, 2018, reporting non-witness § 87(2)(b) filed this complaint with the CCRB online on behalf of her son, § 87(2)(b) and his schoolmates, § 87(2)(b) and § 87(2)(b). On April 21, 2018, § 87(2)(b) filed a duplicate complaint with the Internal Affairs Bureau, generating IAB log #18-15335. The CCRB received this complaint on May 3, 2019 under IAB log #18-15817. On April 23, 2018, reporting non-witness § 87(2)(b) the grandmother of § 87(2)(b) filed a duplicate complaint with the CCRB via telephone, generating CCRB case 201803106.

On April 18, 2018, at approximately 4:25 p.m., officers responded to East 219th Street and White Plains Road in the Bronx to disperse a large crowd of middle school-aged juveniles, some of whom were fighting each other. Officers told § 87(2)(b) to leave the area multiple times, and he refused to comply. Police Officer Donald Harris of the 47th Precinct attempted to arrest § 87(2)(b) but he ran away. Police Officer Harris chased § 87(2)(b) brought him to the ground, and handcuffed him (**Allegation A – Force: Physical Force, § 87(2)(g)**).

Numerous officers told the juveniles to leave the area or they would be arrested (**Allegation B – Abuse of Authority: Threat of Arrest, § 87(2)(g)**). The officers attempted to arrest § 87(2)(b) and an officer allegedly placed § 87(2)(b) in a chokehold by placing § 87(2)(b)'s head between his elbow and the side of his body (**Allegations C and D – Force: Chokehold and Restricted Breathing, § 87(2)(g)**). Sergeant Robert Durst of the 47th Precinct allegedly swung at § 87(2)(b) while he was in this chokehold and missed, and then Sergeant Durst brought § 87(2)(b) to the ground (**Allegation E – Force: Physical Force, § 87(2)(g)**). Police Officer Jared Faber of the 47th Precinct pushed individuals back to keep them away from Sergeant Durst and to get them to leave the area, and an officer pushed § 87(2)(b) in her chest while § 87(2)(b) was being arrested (**Allegation F and G – Force: Physical Force, § 87(2)(g)**).

Police Officer Tyrone Furby said, “That dumb bitch was running her mouth the whole time, she’s getting locked up,” regarding § 87(2)(b) (**Allegation H – Offensive Language: Gender, § 87(2)(g)**). An officer allegedly placed § 87(2)(b) in a chokehold by placing both of his hands around her windpipe (**Allegations I and J – Force: Chokehold and Restricted Breathing, § 87(2)(g)**). Four officers allegedly filmed § 87(2)(b) arrest on their cell phones (**Allegation K – Abuse of Authority: Photography/Videography, § 87(2)(g)**). After she was placed in a police vehicle, Police Officer Furby said, “You still talking shit? You’re the dumbest motherfucker on the planet. You happy? You’re stupid” (**Allegation L – Discourtesy: Word, § 87(2)(g)**).

§ 87(2)(b) and their friend, § 87(2)(b) were each arrested for refusing to leave the area after being ordered to do so. § 87(2)(b) twisted his torso in an effort to escape from the handcuffs, and Police Officer Michael Chin of the 47th Precinct allegedly pushed him against a police vehicle, causing his head to strike its window (**Allegation M – Force: Physical Force, § 87(2)(g)**). After § 87(2)(b) was placed in a police vehicle, Police Officer Joseph Alcoser allegedly referred to him as a “nigger” (**Allegation N – Offensive Language: Race, § 87(2)(g)**).

As § 87(2)(b) entered the 47th Precinct stationhouse, Sergeant Howard Roth allegedly said, “Oh, we got more animals” (**Allegation O – Discourtesy: Word,** § 87(2)(g)). § 87(2)(b) threatened the unborn child of Police Officer Taralena Gerrato of the 47th Precinct, who was pregnant at the time, and Sergeant Roth replied, “You’re going to act like a savage? Get in the fucking juvie room” (**Allegation P – Discourtesy: Word,** § 87(2)(g)).

As § 87(2)(b) was being brought into the cell area, Police Officer John Londono of the 47th Precinct allegedly said, “I told your dumb ass to go home” (**Allegation Q – Discourtesy: Word,** § 87(2)(g)). § 87(2)(b) and § 87(2)(b) asked for water, and Police Officer Londono allegedly told them to drink from the toilet (**Allegations R and S – Discourtesy: Word,** § 87(2)(g)). Police Officer Londono allegedly played an instrumental and rapped to the arrestees. In this rap, Police Officer Londono allegedly called § 87(2)(b) “King Kong” (**Allegation T – Discourtesy: Word,** § 87(2)(g)), called § 87(2)(b) a “nigger” (**Allegation U – Offensive Language: Race,** § 87(2)(g)), and said “Fuck you” to the arrestees (**within Allegations Q, R, S, and T**). Police Officer Londono allegedly called § 87(2)(b) and the others “fucking retarded” (**within Allegation Q; Allegation V – Offensive Language: Disability,** § 87(2)(g)), and he allegedly told § 87(2)(b) that he and his friends were going to be taken “downtown” and that they would have “bigger bootyhole[s]” when they returned home (**Allegation W – Abuse of Authority: Sexual Harassment (Verbal),** § 87(2)(g)). Police Officer Londono allegedly told § 87(2)(b) that he “pull[s] more bitches” than him (**Allegation X – Offensive Language – Gender,** § 87(2)(g)). Police Officer Londono allegedly told § 87(2)(b) “I told your dumb ass to go home,” a second time (**within Allegation Q**). § 87(2)(b) punched a wall in his cell, and an officer said, “Calm down, my nigger” (**Allegation Y – Offensive Language: Race,** § 87(2)(g)). An officer allegedly referred to § 87(2)(b) and his friends as “niggers” (**Allegation Z – Offensive Language – Race,** § 87(2)(g)).

§ 87(2)(b) and § 87(2)(b) were released to their guardians later that evening.

Video footage was obtained from Gold Star Jerk Restaurant at 3768 White Plains Road in the Bronx (IA #414-419, Board Review 02, Board Review 19-24). Body-worn camera (BWC) footage was obtained from the BWC of Police Officer Chin (IA #240, Board Review 03, 04). 36 additional BWC videos captured this incident. These videos were viewed at One Police Plaza on August 13, 2018 and August 16, 2018, and detailed notes were taken for each video (Board Review 04), but the NYPD refused to release these videos to the CCRB.

Findings and Recommendations

Allegation (A) Force: At East 219th Street and White Plains Road in the Bronx, Police Officer Donald Harris used physical force against § 87(2)(b)

§ 87(2)(b) was interviewed on April 24, 2018. § 87(2)(b) provided a telephone statement on May 1, 2018 (Board Review 05) and was interviewed on May 11, 2019. § 87(2)(b) and § 87(2)(b) were interviewed on May 9, 2018 and appeared for photo viewing interviews on April 9, 2019 (Board Review 06, 07). The guardians of § 87(2)(b) and § 87(2)(b) were not cooperative in scheduling interview appointments for their children. The CCRB was unable to establish contact with the guardian of § 87(2)(b).

Police Officer Chin was interviewed on October 3, 2018. Police Officer Harris was interviewed on October 26, 2018. Police Officer Julio Veras of the 47th Precinct was interviewed on October 30, 2018. Sergeant Roth was interviewed on November 13, 2018. Sergeant Durst was interviewed on January 29, 2019. Lieutenant Ray Sanchez of the 47th Precinct was interviewed on March 7, 2019. Sergeant Melvin Moultrie, formerly of the 47th Precinct and currently assigned to Patrol Services Bureau, was interviewed on March 19, 2019. Police Officer Yerald Perez of the 47th Precinct was interviewed on March 26, 2019. Police Officer Londono was interviewed on April 18, 2019. Police Officer Faber was interviewed on May 15, 2019.

§ 87(2)(b) stated that he saw Police Officer Harris, Police Officer Londono, and a third officer chase after § 87(2)(b) from the east to the west side of White Plains Road. § 87(2)(b) did not see what happened before this chase began and did not know why they were chasing § 87(2)(b). Police Officer Harris jumped onto § 87(2)(b)'s back, and they both fell to the ground. Police Officer Harris then lifted § 87(2)(b) off the ground and handcuffed him.

§ 87(2)(b) learned from his friend, § 87(2)(b) that a fight had taken place inside a Chinese restaurant at 3762 White Plains Road. He did not see this fight himself, but § 87(2)(b) told him that § 87(2)(b) was involved in this fight. § 87(2)(b) stated that he saw several officers “wrestling” § 87(2)(b) but he noted that he did not see § 87(2)(b) on the west side of White Plains Road, nor did he see § 87(2)(b) being placed under arrest.

§ 87(2)(b) saw Police Officer Harris chase after § 87(2)(b) on the west side of White Plains Road, but he did not see Police Officer Harris catch § 87(2)(b). § 87(2)(b) made no mention of seeing the arrest of § 87(2)(b).

The surveillance footage from Gold Star Jerk Restaurant is blurry and unclear. Several large crowds of school-aged youths are seen gathered throughout the sidewalk on the east side of White Plains Road. As the officers disperse these crowds, new crowds begin to form. At 04:01:40 p.m., Police Officer Harris is seen chasing § 87(2)(b) from the east to the west side White Plains Road, followed by Police Officer Londono and other unidentified uniformed officers. What happens before Police Officer Harris began chasing § 87(2)(b) and what happens on the west side of White Plains Road, are not visible.

Police Officer Harris stated that when he arrived at the scene, he saw 30 to 40 juveniles yelling and screaming, and a few of them were pushing each other back and forth. Police Officer Harris told § 87(2)(b) to leave the area twice. On both occasions, § 87(2)(b) complied but returned approximately one minute later. Police Officer Harris then told § 87(2)(b) that he was under arrest, and § 87(2)(b) ran across White Plains Road. Police Officer Harris, Police Officer Londono, and other unidentified officers chased after § 87(2)(b). Police Officer Harris grabbed § 87(2)(b)'s waist from behind, and they both fell to the ground.

Police Officer Harris' BWC footage (2018-04-18_16-16-18.avi, Board Review 04) begins with Police Officer Harris running south on the east side of White Plains Road. Police Officer Harris' BWC falls off his person while he is running, and it thus does not capture the arrest of § 87(2)(b).

In his Threat, Resistance, and Injury Worksheet (Board Review 08), Police Officer Harris indicated that he used a forcible takedown against § 87(2)(b). In the arrest report he prepared for § 87(2)(b) (Board Review 09), Police Officer Harris indicated that he arrested § 87(2)(b) for § 87(2)(b), § 87(2)(a) Fam. Ct. Act § 381.3. The Details section of the arrest report is generally consistent with Police Officer Harris' account of the incident.

Police Officer Londono's statement regarding these allegations was generally consistent with Police Officer Harris' but he noted that he did not know what prompted Police Officer Harris to arrest § 87(2)(b) nor did he know the exact technique Police Officer Harris used to bring § 87(2)(b) to the ground. Police Officer Londono denied assisting Police Officer Harris with his takedown of § 87(2)(b) and he did not know whether any officer besides Police Officer Harris made physical contact with § 87(2)(b).

Patrol Guide Procedure 221-01 states, "Force may be used... when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. ... In determining whether the use of force is reasonable, members of the service should consider... whether the subject is actively resisting custody [and] whether the subject is attempting to evade arrest by flight." (Board Review 12).

§ 87(2)(g)

Allegation (B) Abuse of Authority: At East 219th Street and White Plains Road in the Bronx, officers threatened to arrest individuals.

§ 87(2)(b) and § 87(2)(b) both alleged that numerous officers told them and the other civilians gathered at East 219th Street and White Plains Road that they would be arrested if they did not leave the area. At this point, § 87(2)(b) had already been arrested. This is corroborated by the officers' BWC footage (Board Review 04), which shows the crowd largely remaining at East 219th Street and White Plains Road after being ordered to leave the area numerous times. Among the officers seen on BWC threatening to arrest individuals if they did not leave the area are Police Officer Furby, Police Officer Veras, Police Officer Manuel Paulino, and other unidentified officers who are heard but not seen in these videos making such statements. § 87(2)(b) and § 87(2)(b) were then each arrested for disorderly conduct for refusing to disperse (Board Review 10).

According to EVENT D18041816827 (Board Review 11), officers reported that a large group of approximately 50 kids were fighting in the vicinity of East 219th Street and White Plains Road, one of whom had been stabbed.

New York State Penal Law 240.20, subsection 6 (Board Review 12) states, "A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or

recklessly creating a risk thereof... he congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse.”

§ 87(2)(g)

Allegation (C) Force: At East 219th Street and White Plains Road in the Bronx, an officer used a chokehold against § 87(2)(b)

Allegation (D) Force: At East 219th Street and White Plains Road in the Bronx, an officer restricted § 87(2)(b) s breathing.

Allegation (I) Force: At East 219th Street and White Plains Road in the Bronx, an officer used a chokehold against § 87(2)(b)

Allegation (J) Force: At East 219th Street and White Plains Road in the Bronx, an officer restricted § 87(2)(b) breathing.

Allegation (K) Abuse of Authority: At East 219th Street and White Plains Road in the Bronx, officers took recordings of § 87(2)(b)

§ 87(2)(b) stated that approximately 20 seconds after § 87(2)(b) exited a deli and began looking for his friends, an unidentified uniformed white male officer, who he could not describe in detail, placed § 87(2)(b) in a “headlock” such that § 87(2)(b) s head was in between the inside of the officer’s elbow and the side of the officer’s body. § 87(2)(b) did not pay close attention to § 87(2)(b) until he saw him in the headlock, and he was unaware of the officer saying anything to § 87(2)(b) before approaching him. § 87(2)(b) saw § 87(2)(b) being arrested, but he did not allege that any officer used force to effect her arrest. He made no mention of § 87(2)(b) being placed in a chokehold. § 87(2)(b) stated that three plainclothes officers recorded § 87(2)(b) arrests on their cell phones and stopped filming once she was placed in a police vehicle. § 87(2)(b) described these three officers as a 5’5” tall black male in his 40s with an average build, a dark complexion, and brown eyes; a 5’7” male of unknown race in his 30s with an average build, a light complexion, and black hair; and a 5’8-9” tall Hispanic male with an average build, a light complexion, brown hair, and brown eyes.

§ 87(2)(b) did not see any officer place § 87(2)(b) in a headlock or chokehold. He stated that § 87(2)(b) wanted to fight all the officers at the scene after § 87(2)(b) was arrested, and that she pushed, swung at, and spat at officers. § 87(2)(b) stated that he saw a video on Snapchat of § 87(2)(b) being choked by a uniformed black male officer with black hair and a dark complexion. This officer allegedly placed both of his hands around her

windpipe for approximately five to ten seconds before she was handcuffed. § 87(2)(b) noted that he only saw this on video after the incident. and that he did not witness this in person.

§ 87(2)(b) did not see any officer place § 87(2)(b) in a headlock or chokehold. He stated that § 87(2)(b) yelled and cursed at the officers because they arrested § 87(2)(b) and that she drew a crowd of approximately ten onlookers, but he noted that she did not spit or swing at anyone. § 87(2)(b) saw § 87(2)(b) being handcuffed, but he made no mention of her being choked, and he stated that no force was used to place her under arrest. § 87(2)(b) did not know whether any officer filmed § 87(2)(b) arrest.

§ 87(2)(b) made no mention of § 87(2)(b) being placed in a headlock or chokehold. He did not see § 87(2)(b) being arrested and did not know whether any officer grabbed her neck. § 87(2)(b) made no mention of § 87(2)(b) being filmed.

Police Officer Veras' BWC (2018-04-18_16-18-22.avi, Board Review 04) captures the beginning of the officers' apprehension of § 87(2)(b) but not the entire arrest. No officer is seen placing § 87(2)(b) in a chokehold, but unidentified individuals are heard saying, "Why you have to grab him by his neck?"

Police Officer Faber's BWC (2018-04-18_16-22-56.avi, Board Review 04) captures the moment § 87(2)(b) was handcuffed, but what happened before she is handcuffed is not seen. No force is seen being used against § 87(2)(b) in this video. None of the videos show § 87(2)(b) being choked or filmed.

The surveillance footage from Gold Star Jerk Restaurant is too unclear to discern the arrests of § 87(2)(b) and § 87(2)(b)

None of the officers interviewed recalled § 87(2)(b) being placed in a headlock such that § 87(2)(b)'s head was between his elbow and the side of his body, or recalled § 87(2)(b) complaining of having difficulty breathing. None of the officers interviewed acknowledged filming the arrest of § 87(2)(b) on any device other than their BWCs, or seeing any other officer do so.

§ 87(2)(g)
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Allegation (E) Force: At East 219th Street and White Plains Road in the Bronx, Sergeant Robert Durst used physical force against § 87(2)(b)

§ 87(2)(b) stated that Sergeant Durst attempted to punch § 87(2)(b) while he was in the unidentified officer's headlock (see Allegation C), but he missed and fell onto the ground. § 87(2)(b) moved his head and slipped out of the headlock after approximately four seconds.

§ 87(2)(b) attempted to walk away from the officers, and the same officer who placed him in the headlock grabbed him, pushed the front of his body, placed him against a police vehicle, and handcuffed him. § 87(2)(b) made no mention of § 87(2)(b) being on the ground.

§ 87(2)(b) stated that he heard people shout, § 87(2)(b). He turned around and saw Sergeant Durst and four unidentified officers trying to bring § 87(2)(b) down to the ground. § 87(2)(b) did not know how this interaction began. An officer pulled § 87(2)(b)'s backpack off his back and ordered him to get on the ground. § 87(2)(b) said "okay," but then Sergeant Durst used his leg to trip § 87(2)(b) by sweeping his legs out from underneath his body. § 87(2)(b) landed on the front side of his body without breaking his fall, resulting in a cut to his left wrist. Sergeant Durst grabbed § 87(2)(b)'s leg, and then § 87(2)(b) pushed him, causing him to fall to the ground. § 87(2)(b) noted that he heard this from § 87(2)(b) and did not see § 87(2)(b) push any officer, but he noted that he saw one officer on his knees.) § 87(2)(b) twisted his torso and told the officers to get off of him while he was on the ground, and the officers, who had control of his hands, told him to stop resisting. Approximately two to three minutes after § 87(2)(b) fell to the ground, an officer handcuffed him and brought him to a police vehicle.

§ 87(2)(b) stated that while he was being handcuffed, he saw Sergeant Durst throw a punch towards § 87(2)(b)'s face, and § 87(2)(b) successfully weaved away from the punch. Sergeant Durst then brought § 87(2)(b) to the ground, but § 87(2)(b) did not see how he did this. § 87(2)(b) landed on his stomach and was handcuffed.

§ 87(2)(b) stated that § 87(2)(b) exited a deli and began walking behind an unidentified officer who he exchanged words with, but § 87(2)(b) did not know what they said to each other. § 87(2)(b) did not see § 87(2)(b) being initially grabbed, but he saw this officer grab § 87(2)(b)'s sweater from behind, pull him backwards, spin him around, and then push him in his back down to the ground. § 87(2)(b) fell forward and broke his fall with his hands. Sergeant Durst then swung at § 87(2)(b) one time. § 87(2)(b) did not see whether this swing made contact with § 87(2)(b) but he believed Sergeant Durst missed and fell down to the ground on his hands and knees as a result. § 87(2)(b) was then lifted off the ground and handcuffed. § 87(2)(b) stated that § 87(2)(b) did not push any officer.

Police Officer Manuel Paulino's BWC footage (2018-04-18_16-20-40.avi, Board Review 04) shows three officers placing § 87(2)(b) under arrest. The audio begins with the officers saying, "Stop resisting," and, "Put your hands behind your back." § 87(2)(b) brings his arms to the front of his body. This video is 20 seconds long and does not capture the entirety of the officers' physical interaction with § 87(2)(b). None of the other officers' BWCs captured the arrest of § 87(2)(b). The footage from Gold Star Jerk Restaurant is blurry and unclear, and the arrest of § 87(2)(b) cannot be discerned in this video.

Sergeant Durst stated that he asked § 87(2)(b) to leave the area multiple times, but he refused to comply. Sergeant Durst extended his arm to try to place it on § 87(2)(b)'s back, turn him around, and guide him "the other way," at which point § 87(2)(b) pushed Sergeant Durst in one of his arms. Sergeant Durst attempted to effect the arrest of § 87(2)(b) because he refused to leave and pushed him. Sergeant Durst grabbed onto § 87(2)(b)'s clothing with his left hand near where his front zipper would be, and § 87(2)(b)

pulled away from Sergeant Durst, stretching Sergeant Durst's left arm and resulting in pain to his left shoulder. Sergeant Durst then wrapped his right arm around § 87(2)(b)'s torso from behind. Sergeant Durst did not recall whether any other officer was making physical contact with § 87(2)(b) at this point. § 87(2)(b) pushed backwards, throwing Sergeant Durst off balance. Sergeant Durst tried to steady himself by holding onto § 87(2)(b) but he was unsuccessful. Sergeant Durst let go of § 87(2)(b) and braced himself from his fall to the ground by extending his arms. Both Sergeant Durst and § 87(2)(b) went down to the ground. Sergeant Durst fell backwards, twisted his body, and landed on his knees and one of his arms, resulting in abrasions to his knees. Sergeant Durst did not recall how § 87(2)(b) landed. The officers then placed § 87(2)(b) in handcuffs. Sergeant Durst did not recall which officer handcuffed § 87(2)(b) or whether he did so himself. Sergeant Durst did not recall which or how many officers attempted to assist him with § 87(2)(b). Sergeant Durst's physical interaction with § 87(2)(b) lasted approximately one to two minutes. Sergeant Durst did not recall whether he or anyone else tried to punch or swing at § 87(2)(b). § 87(2)(b) Sergeant Durst was diagnosed with an ulnar nerve compression in his elbow and a SLAP tear to his labrum (shoulder) at § 87(2)(b), and at the time of his interview, he was out sick as a result of this injury. (Sergeant Durst declined to sign HIPAA forms).

In the TRI Worksheet he prepared for § 87(2)(b) (Board Review 13), Sergeant Durst indicated that he used a forcible takedown against § 87(2)(b) in order to defend himself and to overcome § 87(2)(b)'s resistance or aggression. Sergeant Durst noted on this report that he experienced pain in his left shoulder, left elbow, left knee, and right hand. The statements contained within Sergeant Durst's Line of Duty Injury Report (Board Review 14) are generally consistent with the account Sergeant Durst gave in his interview of his interaction with § 87(2)(b).

Police Officer Faber's statement was generally consistent with Sergeant Durst's, but believed Sergeant Durst was attempting to effect the arrest of § 87(2)(b) not § 87(2)(b). Police Officer Faber did not know what happened in the moments prior to Sergeant Durst beginning to effect this arrest.

None of the other officers interviewed recalled observing Sergeant Durst's interaction with § 87(2)(b).

Patrol Guide Procedure 221-01 states, "Force may be used... when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. ... In determining whether the use of force is reasonable, members of the service should consider... whether the subject is actively resisting custody [and] whether the subject is attempting to evade arrest by flight." (Board Review 12).

§ 87(2)(g)
§ 87(2)(g)
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§ 87(2)(g)

Allegation (F) Force: At East 219th Street and White Plains Road in the Bronx, Police Officer Jared Faber used physical force against individuals.

Allegation (G) Force: At East 219th Street and White Plains Road in the Bronx, an officer used physical force against § 87(2)(b)

§ 87(2)(b) stated that § 87(2)(b) wanted to fight all the officers after § 87(2)(b) was arrested. She pushed, swung at, and spat at officers. Her swings missed the officers, and people tried to hold her back. An unidentified officer allegedly choked § 87(2)(b) (see Allegation I), who was then handcuffed. § 87(2)(b) did not describe any additional force being used against § 87(2)(b)

§ 87(2)(b) stated that he did not see § 87(2)(b) being arrested, and he did not describe any force being used against her.

§ 87(2)(b) stated that § 87(2)(b) was upset that § 87(2)(b) was arrested and started going “back and forth” with an officer, and he saw her being arrested, but he did not describe any force being used against her.

§ 87(2)(b) stated that § 87(2)(b) yelled, cursed, and drew a crowd of approximately ten people before she was arrested, but he denied that she spat or swung at anyone. He stated that no force was used against her to place her under arrest.

In Police Officer Veras’ BWC footage (2018-04-18_16-18-22.avi, Board Review 04), while § 87(2)(b) is being arrested, § 87(2)(b) moves towards a white male officer, and the white male officer pushes her in her chest, moving her back.

In several BWC videos (Board Review 04), § 87(2)(b) is seen yelling and using profanities towards officers, refusing to leave the area after being ordered to do so multiple times, and instead moving towards the officers and telling them to arrest her. § 87(2)(b) unidentified friends are seen holding her back when she attempts to move towards the officers.

Police Officer Faber stated that he attempted to move the crowd away from East 219th Street and White Plains Road by extending his arms in front of him with his palms open and moving individuals forward, and he stated that he may have made physical contact with them and pushed them when he did this, but he did not know how many people he pushed. The crowd refused to comply with his orders to disperse and got “rowdy” and “out of control,” and the officers were outnumbered. Police Officer Faber stated that he pushed the crowd away from Sergeant Durst

while Sergeant Durst attempted to effect the arrest of § 87(2)(b) Police Officer Faber denied making physical contact with § 87(2)(b) before she was arrested.

None of the remaining officers interviewed acknowledged pushing § 87(2)(b) or anyone else, or seeing any other officer do so.

Patrol Guide Procedure 221-01 states, “Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. ... In determining whether the use of force is reasonable, members of the service should consider the nature and severity of the crime/circumstances, actions taken by the subject, duration of the action... [the] number of subjects in comparison to the number of MOS... [and] the presence of [a] hostile crowd or agitators.” (Board Review 12).

§ 87(2)(g)
[REDACTED]

Allegation (H) Offensive Language: At East 219th Street and White Plains Road in the Bronx, Police Officer Tyrone Furby made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

Allegation (L) Discourtesy: At East 219th Street and White Plains Road in the Bronx, Police Officer Tyrone Furby spoke discourteously to § 87(2)(b)

Police Officer Manuel Paulino’s BWC footage (2018-04/18_16-20-52.avi, Board Review 04) captures Police Officer Furby saying, “That dumb bitch was running her mouth the whole time, she’s getting locked up,” regarding § 87(2)(b) Police Officer Faber’s BWC footage (2018-04-18_16-22-56.avi, Board Review 04) shows Police Officer Faber handcuffing § 87(2)(b) and placing her in the back seat of a police vehicle, from which she yells at the officers. Police Officer Furby says to § 87(2)(b) “You still talking shit? You’re the dumbest motherfucker on the planet. You happy? You’re stupid.”

According to Patrol Guide Procedure 200-02 (Board Review 12), the NYPD is committed to “treating every citizen with compassion, courtesy, professionalism, and respect.” Officers may use profanities “in the context of a dynamic situation over which [he or she is] attempting to gain control,” but many not do so when it “[serves] no legitimate purpose but to belittle” a civilian (*PD v. Pichardo*, DAO DCT Case Number 2015-15012, Board Review 12). According to Patrol Guide Procedure 203-10 (Board Review 12), officers are prohibited from “using discourteous or

disrespectful remarks regarding another person's ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability."

A call made to the MOS Wheel on October 15, 2018 revealed that Police Officer Furby had retired on October 1, 2018. A request to the 47th Precinct for Police Officer Furby's memo book was returned with a note that Police Officer Furby had retired (Board Review 15). § 87(2)(g)

Allegation (M) Force: At East 219th Street and White Plains Road in the Bronx, Police Officer Michael Chin used physical force against § 87(2)(b)

§ 87(2)(b) stated that he attempted to board numerous Bx39 buses from a bus stop at the northeast corner of East 219th Street and White Plains Road, but the buses were either too full, or the bus drivers refused to pick up passengers from this stop. An officer said, "You should have left," and handcuffed § 87(2)(b). As he walked § 87(2)(b) towards a police van, § 87(2)(b) twisted his torso back and forth in an effort to get out of the handcuffs. The officer then pushed § 87(2)(b) in his back towards a police vehicle parked on White Plains Road. The officer placed the front side of § 87(2)(b)'s body against the vehicle, causing § 87(2)(b)'s face to strike the vehicle's window, and resulting in a headache. § 87(2)(b) described this officer as a 6' tall uniformed black male officer in his 50s with an average build, a light complexion, dark eyes, and black medium-length dreadlocks that stopped above his shoulders.

§ 87(2)(b)'s statement regarding this alleged push was generally consistent with § 87(2)(b)'s but he was unable to describe the subject officer.

§ 87(2)(b) did not see § 87(2)(b) being apprehended. He did not know whether § 87(2)(b) offered resistance and did not see him twisting his torso. § 87(2)(b) saw § 87(2)(b) against the side of a police vehicle, but he did not see the moment when § 87(2)(b) was placed against the vehicle.

§ 87(2)(b) stated that he saw his friends being handcuffed, but he made no mention of § 87(2)(b) being pushed.

Police Officer Chin, § 87(2)(b) old at the time of the incident, is a black male who is 6' tall, weighs 200 pounds, and has an average build, a light brown complexion, brown medium-length dreadlocks, and brown eyes. He is the only identified officer present at East 219th Street and White Plains Road who wears dreadlocks (Board Review 16). Police Officer Chin denied handcuffing anyone and pushing anyone against the side of a police vehicle. None of the remaining officers interviewed acknowledged pushing § 87(2)(b) against a police vehicle or seeing any officer do so.

Police Officer Chin's BWC footage (Board Review 03, 04) begins while Police Officer Chin is walking with § 87(2)(b) and § 87(2)(b) towards a police van. None of the officers' BWC footage captures the moment § 87(2)(b) was handcuffed, nor does it capture Police Officer Chin or any other officer pushing § 87(2)(b) against a police vehicle. The footage from Gold Star Jerk Restaurant is blurry and unclear, and the arrest of § 87(2)(b) cannot be discerned in this video.

Patrol Guide Procedure 221-01 states, “Force may be used... when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. ...s In determining whether the use of force is reasonable, members of the service should consider... whether the subject is actively resisting custody [and] whether the subject is attempting to evade arrest by flight.” (Board Review 12).

§ 87(2)(g)

Allegation (N) Offensive Language: En route to the 47th Precinct stationhouse, Police Officer Joseph Alcoser made remarks to § 87(2)(b) based upon race.

In his telephone statement, § 87(2)(b) alleged that Police Officer Alcoser referred to him as a “nigger” while he was speaking to his partner, Police Officer Nicholas Van Dyke, inside the police vehicle. § 87(2)(b) was alone with the police officers inside the vehicle. § 87(2)(b) provided no further context about this remark in his telephone statement. In his in-person interview, § 87(2)(b) repeated that Police Officer Alcoser used the word “nigger” in conversation with Police Officer Van Dyke in the police vehicle, but he did not recall the context in which his statement was made.

Police Officer Alcoser’s BWC footage (2018-04-18_16-43-00.avi, Board Review 04) begins before he enters the police vehicle and captures the entirety of his ride from East 219th Street and White Plains Road to the 47th Precinct stationhouse. At no point in this video does Police Officer Alcoser use the word “nigger.”

§ 87(2)(g)

Allegation (O) Discourtesy: At the 47th Precinct stationhouse, Sergeant Howard Roth spoke discourteously towards § 87(2)(b)

Allegation (P) Discourtesy: At the 47th Precinct stationhouse, Sergeant Howard Roth spoke discourteously towards § 87(2)(b)

§ 87(2)(b) stated that as he entered the 47th Precinct stationhouse in police custody, Sergeant Roth said, “Oh, we got more animals.” He further stated that at the stationhouse, § 87(2)(b) threatened to kill Police Officer Taralena Gerrato’s baby, at which point Sergeant Roth started “flipping on her” and told an officer that § 87(2)(b) needed to “go somewhere.”

§ 87(2)(b) stated that an officer referred to § 87(2)(b) as an “animal,” but he was not paying close attention at this moment, and he was not sure which officer made this remark. § 87(2)(b) stated that § 87(2)(b) screamed that she would kick Police Officer Gerrato’s baby out of her stomach. § 87(2)(b) did not state how any officer responded to this remark.

§ 87(2)(b) did not know whether any officer used any slurs or foul language at the stationhouse before he was placed in a cell, nor did he know whether any officer called anyone an

“animal.” § 87(2)(b) made no mention of Sergeant Roth interacting with anyone at the front desk.

Police Officer Chin’s BWC footage shows him escorting § 87(2)(b) into the stationhouse behind § 87(2)(b) and § 87(2)(b) enters the stationhouse approximately five seconds after § 87(2)(b). No officer is heard using the word “animal” in this video.

In Police Officer Brian Diaz’s BWC footage (2018-04-18_16-33-56.avi, Board Review 04), § 87(2)(b) tells Police Officer Gerrato, who is behind the desk and visibly pregnant, “I will kill your kid.” In response, Sergeant Roth says, “You’re going to act like a savage? Get in the fucking juvie room,” and then tells Police Officer Diaz to place § 87(2)(b) in the juvenile room.

Sergeant Roth denied saying, “Oh, we got more animals,” and denied referring to the arrestees as animals in any fashion. Sergeant Roth recalled § 87(2)(b) threatening Police Officer Gerrato’s unborn child, but he did not recall responding to this threat. Sergeant Roth denied calling § 87(2)(b) a “savage” and using the word “fuck” towards her.

None of the other officers interviewed acknowledged hearing Sergeant Roth make any of these alleged statements.

According to Patrol Guide Procedure 200-02, the NYPD is committed to “treating every citizen with compassion, courtesy, professionalism, and respect.” Officers may use profanities “in the context of a dynamic situation over which [he or she is] attempting to gain control,” but many not do so when it “[serves] no legitimate purpose but to belittle” a civilian (PD v. Pichardo, DAO DCT Case Number 2015-15012) (Board Review 12).

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Allegation (Q) Discourtesy: At the 47th Precinct stationhouse, Police Officer John Londono spoke discourteously to § 87(2)(b)

Allegation (R) Discourtesy: At the 47th Precinct stationhouse, Police Officer John Londono spoke discourteously to § 87(2)(b)

Allegation (S) Discourtesy: At the 47th Precinct stationhouse, Police Officer John Londono spoke discourteously to § 87(2)(b)

Allegation (T) Discourtesy: At the 47th Precinct stationhouse, Police Officer John Londono spoke discourteously to § 87(2)(b)

Allegation (U) Offensive Language: At the 47th Precinct stationhouse, Police Officer John Londono made remarks to § 87(2)(b) based upon race.

Allegation (V) Offensive Language: At the 47th Precinct stationhouse, Police Officer John Londono made remarks to § 87(2)(b) based upon the physical disability of § 87(2)(b)

Allegation (W) Abuse of Authority: At the 47th Precinct stationhouse, Police Officer John Londono made a sexually suggestive remark to § 87(2)(b)

Allegation (X) Offensive Language: At the 47th Precinct stationhouse, Police Officer John Londono made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

§ 87(2)(b) stated that while he was in a cell, he asked for some water, and Police Officer Londono told him to drink from the toilet. Police Officer Londono allegedly played an instrumental and started rapping about § 87(2)(b) and the other arrestees. While rapping, Police Officer Londono allegedly called § 87(2)(b) “King Kong,” called § 87(2)(b) a “nigger,” and used profanities towards the arrestees, including “Fuck you.” § 87(2)(b) did not recall any additional remarks Police Officer Londono made during this time. § 87(2)(b) identified Police Officer Londono as the subject of these allegations during his photo viewing interview.

§ 87(2)(b) stated that as he was being brought into the cell area, Police Officer Londono said to him, “I told your dumb ass to go home.” § 87(2)(b) learned from § 87(2)(b) that an officer had told him to drink from the toilet, but he did not mention hearing this remark himself. § 87(2)(b) also stated that Police Officer Londono played an instrumental and began to rap about the arrestees and make fun of their arrests. While rapping, Police Officer Londono allegedly used the word “nigger” towards § 87(2)(b) or § 87(2)(b) but § 87(2)(b) did not recall this statement more specifically. Police Officer Londono also allegedly used the word “fuck” in his rap, but did not direct this toward anyone in particular. Police Officer Londono allegedly referred to the arrestees collectively as “fucking retarded,” and allegedly said he was going to take § 87(2)(b) and the others “downtown,” and that they would have “bigger bootyhole[s]” when they returned. Police Officer Londono allegedly said to § 87(2)(b) “I told your dumb ass to go home,” a second time while he was in the cell. § 87(2)(b) did not hear Police Officer Londono refer to anyone as “King Kong.” § 87(2)(b) stated that after Police Officer Londono rapped, he told § 87(2)(b) that he “pulls more bitches” than him. § 87(2)(b) also identified Police Officer Londono as the subject of these allegations during his photo viewing interview.

§ 87(2)(b) stated that approximately five minutes after he was placed in a cell, he and his friends asked for something to drink, and Police Officer Londono told him to drink from the

toilet. § 87(2)(b) made no mention of any of the remaining allegations lodged against Police Officer Londono by § 87(2)(b) and § 87(2)(b) nor did he mention any officer rapping.

§ 87(2)(b) stated that he fell asleep approximately ten minutes after being placed in a cell, that he had no memory of anything remarkable happening in the cell area, and that he did not know what happened while he was asleep.

None of the officers' BWC videos captured anything that occurred in the cell area at the 47th Precinct stationhouse.

Police Officer Londono stated that he was "maybe at one point" in the cell area with the arrestees, but he noted that he was not assigned to monitor them in the cell area, and that he did not specifically remember going to the cell area. Police Officer Londono denied playing an instrumental, rapping to the arrestees, and making any of these alleged statements.

None of the remaining officers interviewed acknowledged hearing Police Officer Londono rap or make any of these alleged statements.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation (Y) Offensive Language: At the 47th Precinct stationhouse, an officer made remarks to § 87(2)(b) based upon race.

Allegation (Z) Offensive Language: At the 47th Precinct stationhouse, an officer made remarks to § 87(2)(b) based upon race.

§ 87(2)(b) stated that approximately two to three hours after he was placed in a cell, he began punching a wall, and an unidentified uniformed white male officer in his 40s who was approximately 5'9" tall and had an average build and curly brown hair allegedly said. "Calm down, my nigger."

§ 87(2)(b) stated that a uniformed 38-year-old white male officer who was approximately 5'6" tall and had a heavy-set build, brown hair, and possibly tattoos referred to him and his friends collectively as "niggers" in the cell area, but he did not recall the context in which the officer made this statement.

§ 87(2)(b) stated that he fell asleep approximately ten minutes after being placed in a cell, that he had no memory of anything remarkable happening in the cell area, and that he did not know what happened while he was asleep.

§ 87(2)(b) made no mention of any officer making profane or offensive remarks in the cell area aside from Police Officer Londono (see Allegations Q-W).

None of the officers' BWC videos captured anything that occurred in the cell area at the 47th Precinct stationhouse.

Each officer interviewed denied making each of these alleged statements, and none of them had any memory of any other officer making these statements.

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] have been parties. § 87(2)(b) [REDACTED] was also a party to CCRB case 201803106, which was closed as a duplicate of this case (Board Review 17).
- § 87(2)(b) [REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
- Police Officer Donald Harris has been a member-of-service for four years and has been a subject in two additional CCRB complaints and four additional allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
[REDACTED]
- Sergeant Robert Durst has been a member-of-service for 11 years and has been a subject in three additional CCRB complaints and five additional allegations, one of which was substantiated.
 - 201701267 involved a substantiated allegation of Force – Nonlethal Restraining Device against Sergeant Durst. The Board recommended charges and the NYPD has not yet imposed discipline.
 - § 87(2)(g) [REDACTED]
[REDACTED]

Reviewer:

Signature

Print Title & Name

Date